

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

FILED

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U.S. DISTRICT COURT
N.D. OF ALABAMA

UNITED STATES OF AMERICA,

Plaintiff,

V.

ERIC ROBERT RUDOLPH,

Defendant.

Case No. CR-00-S-422-S

DEFENDANT'S MOTION TO EXTEND TIME
FOR FILING JURY QUESTIONNAIRE

COMES NOW defendant, Eric Robert Rudolph, by and through counsel, and moves this court to extend the deadline for filing the agreed jury questionnaire and other related materials from the currently set date of July 12, 2004 to December 15, 2004.

By order filed June 23, 2004, this Court granted the defendant's motion to reconsider the trial date in this case and set forth a schedule of deadlines for the parties. Relevant to this motion, the Order directs the parties to file an agreed jury questionnaire and any additional questions not agreed to, along with objections and arguments, on July 12, 2004.¹ By way of this motion, the defendant seeks additional time to prepare, to work with government counsel and to submit the document envisioned by the court.

An extensive jury questionnaire should provide the court and the parties with an opportunity to learn not only about the background of potential jurors, but also about the views

¹ The questionnaires are to be completed by the potential jurors on March 23, 2005, on the premises of a location to be designated by the court. [DE 255, Order at p. 4].

and biases of potential jurors toward various issues they may confront in the case. As a result, prior to drafting an extensive juror questionnaire, other than one that would simply address questions regarding juror backgrounds, knowledge of the case and views on the death penalty, the parties should have knowledge of the issues that jurors may confront in the case.² For example, in a case involving a mental health defense, the questionnaire should explore juror attitudes toward mental health experts and the legitimacy of such defenses; where drugs are involved, the questionnaire should explore attitudes toward drugs; and where sexual abuse is involved, the questionnaire should explore prior experiences with sexual abuse and jurors perceptions about the “abuse excuse.” In a capital case, attitudes about potential aggravating and mitigating evidence should be explored.

For most of the same reasons that the defendant requested a continuance of the trial date – essentially that he is not prepared to proceed to trial – additional time to prepare a jury questionnaire is necessary. The defendant is not prepared at this stage in the investigation of the case to address the issues that an extensive jury questionnaire should contain. As a result, submission of a questionnaire at this point in the defense preparation – preparation that trails way behind the government's – will weight the questionnaire with questions the government believes are relevant to the trial and leave a clear void for issues that will ultimately be relevant to the defense case.

In addition to not being prepared to recommend appropriate case issue related questions, given time and scheduling constraints defense counsel have not been able to meet and confer

² Indeed, the government has provided defense counsel with a draft questionnaire that covers some 43 areas, including questions about membership in or contributions to a variety of organizations, opinions about potential inflammatory evidence, and abortion as well as background questions and questions about the death penalty.

with government counsel to address even which non-case specific questions to include in a jointly submitted questionnaire.³ It will take substantial time to create the document the court appropriately envisions should be developed – a collection of agreed upon, disputed and alternative proposals, as well as the supporting arguments from each party – because much of the discussion will inevitably focus on the particular style and framing of questions, not whether or not the topic should be covered.

For these reasons, it is requested that the court amend the Order of June 23, 2004, and permit the parties until December 15, 2004, to submit the agreed jury questionnaire as well as additional jury questions not agreed to by the parties. The December 15, 2004 date permits Mr. Rudolph additional time necessary to understanding and framing issues that will be relevant to his defense, to work with the consultant retained by the defense and meet with the government to attempt agreement and create the document the court has directed be prepared.⁴

Dated: July 7, 2004

Respectfully Submitted,

Richard Jaffe
Bill Bowen
Judy Clarke
Michael Burt
Emory Anthony

Counsel for Eric Robert Rudolph

By: 
Judy Clarke

³ The consultant retained by the defense to assist with questionnaire development is out of the country and not available to provide any assistance until early August.

⁴ A change in the due date for the jury questionnaire will not affect the ability of the defendant to meet other dates in the Order.

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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been served upon the following by mailing the same by facsimile transmission and by first class United States mail, properly addressed and postage prepaid, on this 7th day of July, 2004 to:

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Bill Bowen